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June 6, 2022

Hon. Paul A. Engelmayer
United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 2201
New York, New York 10007

Re: US Specialty Ins. Co. v Massachusetts Bay Ins. Co./Hanover Ins. Co.
Civil Action No.: 1:21-cv-10590 (PAE)
Our File No.: 18611DJHIN

Dear Judge Engelmayer:

This letter is written in response to Mr. Duffalo's correspondence of May 27, 2022, and as Ordered by this court on June 2, 2022.

Following our Rule 26 conference, we proceeded, as requested, to attempt to determine if my client(s) would resolve this case by accepting the defense of U.S. Specialty's insureds in the underlying action. We are not able to do so at this time.

We have now provided counsel for the plaintiff our Rule 26(a)(1) disclosure. The letter providing the disclosure (but not the exhibits) has been filed with the court.

Therefore, at this time, we wish to proceed and engage in the next steps to bring this case to resolution. As noted by plaintiff's counsel, they have provided us with a copy of their Rule 26(a)(1) disclosure. Therefore, we consent to plaintiff's request to conduct a

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conference for the purposes of completing a briefing schedule for summary judgment motions. We believe that pleadings and documents are the only items necessary for these motions, and re willing to forego depositions if plaintiff will do so also.

As we have completed our Rule 26 disclosure, we are asking the Court to deny any applications seeking preclusion in this case. The delay in our document production was primarily related to the fact that we were attempting to complete an analysis for resolution of the coverage issues in this case, and no prejudice has been suffered by any party as a result of our untimely automatic disclosure.

We thank the court for its consideration of this correspondence.

Respectfully yours,

BAXTER SMITH & SHAPIRO, P.C.

A.J. Smith

By: Arthur J. Smith

AJS/lm

cc: Jan H. Duffalo, Esq.

In light of defendants' compliance with their Rule 26 obligations, the Court finds the discovery dispute moot. Separately, while the Court is prepared to schedule a pre-motion conference to discuss anticipated motion practice, defendants' willingness to engage in such practice, at this stage, appears predicated on the parties mutually foregoing depositions. Plaintiffs shall file a letter on the docket of this case indicating their view on that condition by the end of the day on June 8, 2022.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

6/6/2022